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Court Appointed Receiver

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON, EUGENE DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**MALCOLM H. CLEMENT, JR. et. al.,**

**Defendants.**

Case No: 6:12-cv-1902 - AA  
 Assigned for all purposes to the  
 Honorable Ann L. Aiken

**~~PROPOSED~~ ORDER RE:**  
**APPROVING SALE OF REAL AND**  
**PERSONAL PROPERTY;**  
**OVERRULING THE OBJECTION;**  
**AND APPROVING PROCEDURES**  
**FOR FILING THE RECEIVER'S**  
**FINAL ACCOUNT AND REPORT.**

Date: None  
 Time:  
 Ctrm:

The Receiver's Report of the Sale of the Real and Personal Property ("Report") of the Defendant, Malcolm H. Clement, Jr., was filed on Wednesday, November 26, 2014. There was no hearing on the Report. An objection was filed by a bidder at the auction and has been considered by the Court. Notice appears to be proper.

No hearing is contemplated by the appointing order, and the Court determines that no hearing is necessary. After review of the Receiver's Report and opposition thereto and good cause having been shown, the Court makes and enters the following orders.

**IT IS ORDERED:**

1. Approval of the Sale: The Court approves the sale of the real and personal property to the high bidder, Jim Sallee and Billie Giddens from Tangent, Oregon who submitted the high bid ("Over Bidder") for a gross amount of \$247,500. The real and personal property include The Trees of Oregon RV Park and related buildings and acreage located near I-5 exit 150 between Yoncalla and Rice Hill, Oregon (collectively the "Properties"). There are two parcels of real property being sold plus personal property:

a. Property 1: The first property being sold is legally described as:

i. Beginning at an iron rod on the Southerly boundary line of the William H. Wilson D.L.C. No. 45 on the East right of way line of the present Oregon State Highway No. 99 and the South boundary line of the property of Ben P. Metz, et ux, and described in Volume 177, Page 503, of the Deed Records of Douglas County, Oregon, and from which the Southwest corner of the said William H. Wilson D.L.C. No. 45 in Section 15, Township 23 South, Range 5 West, Willamette Meridian, in Douglas County, Oregon, bears North 89° 41' West 877.8 feet and running thence along the said East right of way line, North 0° 38' East 485.7 feet to an iron pipe; thence leaving the said East right of way line and running East 436.96 feet to an iron pipe on the East boundary of Ben P. Metz, et ux, as described in Volume 177, Page 503, of the Deed Records of Douglas County, Oregon; thence South 0° 02' West 488.2 feet along said property line to an iron rod at the Southeast corner of said property; thence North 89° 41' West 442.2 feet along the Southerly line of said property to the place of beginning.

ii. The property is parcel numbers R56887 and M85476 at the Douglas County Assessor's Office.

b. Property 2: The second property being sold is legally described as:

i. Parcel 2 of Partition Plat No. 2005-0055, Instrument No. 2005-013586, in Douglas County, Oregon.

ii. This real property is parcel number R127379 at the Douglas County Assessor's Office.

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1           c. Personal Property: This order also passes title to the purchasers of any  
 2           personal property that Defendant Malcolm Clement has not removed from  
 3           the real properties described above. Included in the personal property is  
 4           a manufactured home at the entrance to the RV Park with a property ID  
 5           number of M85476 that is to be transferred to the buyers through this sale.

6           2. Sale Confirmed: The Court finds that the Property was sold at public  
 7           auction on October 21, 2014, and through an overbid process that ended on October 31,  
 8           2014, in compliance with 28 U.S.C. §§ 2001 and 2002 and this Court's Order Appointing  
 9           Receiver entered September 11, 2014 (ECF No. 104). The Court finds, pursuant to the  
 10          statement of the Receiver, that all of the funds are in escrow and the buyer is ready to  
 11          close. Therefore, the Court hereby orders that the sale is confirmed.

12          3. Objection Overruled: The objection filed by attorney Dan McKinney is  
 13          overruled.

14          4. Effect of Confirmation: It is further ordered that the confirmation of the  
 15          sale shall, and hereby does, discharge and extinguish all interests in, liens against, or  
 16          claims to the Properties that are presently held by the United States of America;  
 17          defendant Malcolm H. Clement, Jr.; defendant Diamond Hawk Property Management,  
 18          LLC; defendant James R. Hill, in his capacities as Trustee of the Ralph A. Hill Trust and  
 19          the Josephine E. Hill Trust, and those Trusts themselves; defendant Sharon G. Montana;  
 20          and defendant Douglas County, Oregon. The property remains subject to the grant of  
 21          easement in favor of defendant Donald L. Jenkins dba Beacon Advertising Services,  
 22          recorded as instrument number 2006-022830 in the Douglas County Clerk's Office.

23          5. Closing: Final closing shall take place within 30 days of the date this  
 24          order is entered.

25          ////

1           6.     Deeds; Recording This Order: The Receiver shall issue an appropriate  
2 quitclaim deed to the purchasers of the property. It is further ordered that the  
3 purchasers of the Properties, or any of them, may record this Order in public records as  
4 they may find appropriate.

5           7.     Procedure for Approval of the Receiver's Final Account and Report: After  
6 the sale is concluded, the Receiver shall file a final account and report with notice to all  
7 creditors and tenants. The notice will include an opportunity to object by filing an  
8 objection with the Clerk of the Federal Court in Eugene, Oregon within fifteen calendar  
9 days of the date of the notice.  
10

11           8.     Distribution of Sale Proceeds: After confirmation of the sale as provided  
12 for herein, the Receiver shall distribute the proceeds from sale of Properties as follows to  
13 be disbursed by escrow:

14           a.     **FIRST**, the Receiver shall pay commissions to Tranzon and, if applicable,  
15 the real estate broker. The Receiver shall set aside a reserve for the  
16 unpaid fees and costs of the Receiver and his counsel in the approximate  
17 amount of \$50,000.  
18

19           b.     **SECOND**, to Douglas County in full payment of any unpaid local ad  
20 valorem taxes on the Properties. The payment to Douglas County shall  
21 be mailed to: Douglas County Tax Collector, 1036 SE Douglas, Room  
22 205, Roseburg, OR 97470.  
23

24           c.     **THIRD**, to Sharon G. Montana, in the sum of \$3,500. The payment to  
25 Ms. Montana shall be mailed to: Sharon G. Montana, Church Hill Living  
26 Estates, 1919 Bailey Hill Road, Room #3, Eugene, OR 97405, or such  
27 other address as Ms. Montana may give notice of to the Receiver, to the  
28 Court, or to the United States.

1  
2 d. **FOURTH**, to the United States, in the sum of all remaining funds not to  
3 exceed \$505,548.10 as of October 31, 2013 together with any other  
4 interest or penalties that may have accrued through the date of the  
5 confirmation. The payment to the United States shall be mailed to U.S.  
6 Department of Justice, Tax Division, Tax FLU, Office of Review, P.O. Box  
7 310, Ben Franklin Station, Washington, D.C. 20044-0310, and the phrase  
8 "CMN 2010101166" shall be written on the memo line of the check.  
9

10  
11 Date:

1/6/2015



The Honorable Ann L. Aiken  
Chief United States District Judge  
District of Oregon